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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

Ms. Magalie Roman Salas
Secretary
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

Re: Petition for Rulemaking
Steubenville, Ohio and
Burgettstown, Pennsylvania

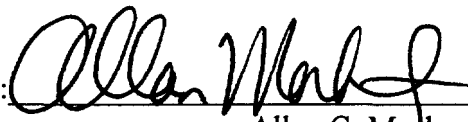
Dear Ms. Salas:

On behalf of Keymarket Licenses, LLC, we are herewith filing an original and four (4) copies of its "Petition for Rulemaking" to reallocate Channel 278B from Steubenville, Ohio to Burgettstown, Pennsylvania, and modify the license of Radio Station WOGH(FM) accordingly.

Should any questions arise with respect to this matter, please contact the undersigned counsel.

Respectfully submitted,

KAYE, SCHOLER, FIERMAN, HAYS & HANDLER, LLP

By: 
Allan G. Moskowitz

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Federal Communications Commission

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In The Matter of)
)
 Amendment of Section 73.202(b))
 of the Commission's Rule)
 FM Table of Allotments)
)
 (Steubenville, Ohio and)
 Burgettstown, Pennsylvania))
)
 TO: Chief, Allocations Branch)

MM Docket No. _____
 RM- _____

PETITION FOR RULEMAKING

Keymarket Licenses, LLC, ("Keymarket") by its counsel, and pursuant to Section 303 of the Communications Act of 1994 as amended, hereby requests that the Federal Communications Commission ("Commission") amend Section 73.202(b) of the Commission's Rules to reallocate Channel 278B from Steubenville, Ohio to Burgettstown, Pennsylvania and modify the license of Radio Station WOGH(FM) accordingly. In support thereof, the following is respectfully shown:

1. Radio Station WOGH(FM) presently operates on Channel 278B at Steubenville, Ohio and we are proposing to reallocate the channel to Burgettstown, Pennsylvania. Burgettstown, located in Washington County is approximately 20 miles east of Pittsburgh and has a 1990 U.S. Census Population of 1,634. Burgettstown was established in the mid 19th Century and was incorporated in 1881. The city is governed by a mayor and five member city council. Burgettstown provides police, fire and sewage services to the community. Burgettstown has its own public library, a public school system, a Catholic high school, commercial establishments, gas stations and its own post office. Burgettstown has social and charitable organizations such

as the Lions Club and the American Legion. There are five separate churches in Burgettstown. Major employers in Burgettstown include Langeroth Metallurgical Company and Union Electric. Burgettstown, therefore, has the social, economic and governmental indices to qualify as a community for allotment purposes. FM Channel Assignments (Biltmore Forest, North Carolina) 63 RR2d 251 (1987). (See Exhibit 1). However, no AM or FM stations are currently licensed to Burgettstown, either commercial or non-commercial. Consequently, the reallocation of Channel 278B to Burgettstown will constitute the community's first local service.

2. In contrast, full service commercial Radio Station WDIG(AM) and WSTV(AM) will continue to provide local service to Steubenville, Ohio, as well as non-commercial FM station WBJV(FM). Consequently, the proposed reallocation of Channel 278B from Steubenville, Ohio to Burgettstown, Pennsylvania and the modification of WOGH(FM)'s license will not deprive Steubenville of its only local service.

3. The proposed reallocation complies with the Commission's Rules and would serve the Commission's allotment priorities and public interest. In Amendment Of The Commission's Rules Regarding Modification of FM and TV Authorizations To Specify a New Community of License, 4 FCC Rcd. 4870 (1989), recons granted in part, 5 FCC Rcd. 7094 (1990) (hereinafter, "Community of License"), the Commission stated the proposed channel must be mutually exclusive with the existing channel and the new community must be preferred over the existing community under the Commission's allotment priorities. Since we are proposing the reallocation of the Channel 278B from Steubenville, Ohio to Burgettstown, Pennsylvania, the instant proposal is mutually exclusive with the current use of Channel 278B.

4. Further, the new community, Burgettstown, will obtain a first local service, whereas Steubenville, Ohio will retain existing service from two commercial AM stations and

one non-commercial FM station. Under the Commission's allotment criteria, first local service is preferred over additional local services. See Revision of FM Assignment Policies and Procedures, 90 FCC 2d. 88 (1982).

5. The reallocation of Channel 278B to Burgettstown will provide significant public service benefits. Burgettstown must be preferred for a first local service over Steubenville. Further, as indicated in the attached engineering statement of William J. Getz of Carl T. Jones Corporation, the proposed reference coordinates are identical to the present WOGH(FM) licensed transmitter site coordinates and, therefore, there will be no gain or loss in service from this proposal.

6. Petitioner hereby states that should the Commission grant the instant proposal to reallocate Channel 278B from Steubenville, Ohio to Burgettstown, Pennsylvania and modify Radio Station WOGH(FM)'s license accordingly, Petitioner will file an application for the new facilities and, when granted, will implement that application expeditiously.

WHEREFORE, for the foregoing reasons, Keymarket Licenses, LLC respectfully requests that the Commission amend its table of allotments to reallocate Channel 27.8B from Steubenville, Ohio to Charleroi to Burgettstown, Pennsylvania and to modify Radio Station WOGH(FM)'s license accordingly.

Respectfully submitted,

Keymarket Licenses, LLC

By: 
Allan G. Moskowitz
Its Attorney

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October 3, 2000

1-202-682-3580

Allan Yostowitz

His story
BURGETTSTOWN

Much good history has been written about Burgettstown, and it is not the intention of the writer to either repeat much of what others have written in recent years, or even to add much to what has already been compiled about the town. What I would like to do is possibly to mention a few things which have been missed in earlier accounts as well as to record some impressions of the town which I have received during my years of periodic visits to Burgettstown.

Since our family, during my boyhood in the early years of this century, lived on the former Mark Stephenson farm a mile south of Atlasburg in Smith Township, it was our custom to make frequent trips to Burgettstown to take our "marketing" and to purchase most of the things needed about the farm and home. My sisters and I attended school at the old Cooke School just over the hill from our farm; we as a family attended church at Cross Creek Village, but most of our trading was done at Burgettstown. Around sixty years ago at least weekly visits were made to this town.

By that time the Burgett family had all disappeared from their "town" and I never saw anyone who bears this name. Boston C. Burgett, the last of the name here, died on July 28, 1894, just about four months before I was born. He was aged 70 years and left surviving him two daughters, Mrs. Rachel Tuman of Pittsburgh and Mrs. Frank McCune of Numick Station. The family has pretty well disappeared from our knowledge, but just as I write this, a letter from a friend in Florida reports meeting a Mr. Burgett who claims to be a descendant of the Burgettstown Burgetts. We must contact this man soon and find out more about the present family. Dr. Edward Burgett Welsh, noted church historian of Wooster, Ohio, claims descent from this family as well as from the Rowland Rogers family once prominent here.

It is well known that this town was named for the German immigrant, Sebastian, or Boston, Burgett who was the original settler here. His settlement was in the southern end of the present town, the "Old Town" of those days when this appellation was used to distinguish it from the newer portion of the town, down near

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the station. When the railroad was built through here in the 1860's, a town at first called Abilene, but later Cardville, was built at the local stop on the new railroad line. The name, Cardville, for the post office at least, existed until October 1, 1883, when that office became "Burgettstown" and the former Burgettstown Post Office in the "Old Town" became "South Burgettstown". Now, with mail delivery being made to all parts of the borough, the designations for the two ends of town are gradually falling into disuse, and Burgettstown applies to the entire town.

As we used to visit the "Old Town", coming into it from the south, in the business district of that part of town, we recall the stores then operated there: W. M. McMurray and son, Bill, operated a grocery store on the northeast corner of Main and Pittsburgh streets; opposite was the clothing store of Fleming and Close; next to it, Lou Leopold and his good wife, Annie (Raab), had their bakery; next was the South Burgettstown Post Office with John Pry as postmaster; then came the meat shop operated by John A. Russell and son, Frank. Down to the west on Pittsburgh street at the Creek was the Mill, then operated by James P. Leech. This was on the same site where the old Burgett Mill is thought to have been located.

tt In driving on downtown toward the station, we passed the First U. P. Church on the right and then, on the hill, the First Presbyterian Church. Just before passing the new public school building was the drugstore of H. B. McMurray, standing alone with no other businesses near. The school building had (and has) the inscription: A. D. PUBLIC SCHOOL 1895. I used to wonder about the initials A. D. as we passed here. The Old Auditorium Hall stood on the later site of Mary Ann Theater opposite Petrucci's Market. That Hall was, I think, the old Presbyterian Church from up on the hill, moved down here after that congregation had moved into town. Next stood the new Westminster Presbyterian Church and opposite the also new Second U. P. Church.

At the "Station", business houses were more numerous. If our visit to town was a short one, our horse or team was tied up at the hitching rack to the rear of Pat Vance's hardware store or Math Scott's furniture store. At that time a long platform or board walk extended from the passenger station down along the railroad track to these two stores.

Going over onto "short" Main Street, we passed on the

corner the banking room of the Burgettstown National Bank, organized in 1872 as a Savings Bank and becoming a National Bank in 1879. This building, according to the stone, was built in 1890. In the store room in this building C. Bloom and Bro. (Louis) had their clothing store and next above it was Will McCurdy's drugstore. Next Door, Fin Scott had his grocery. On the property just below the passenger station was the livery stable then conducted by George Wilson. If we were in town for the day or when going to Pittsburgh on the train, our team would always be left in care of Mr. Wilson at his stable. Beside the livery was the barber shop in which Charley Miller and Ed McFarland presided as tonsorial artists for the town.

On the corner opposite the bank stood the Smith Hotel in charge then of the genial "mine host" Jim Smith of the Jefferson Township family of Smiths. Next above the hotel, I believe, John McCabe had a grocery store and nearby was the shoe store of Mr. and Mrs. C. A. Bingham. Up around the corner, Joe Jeffries had his fruit store, providing also on occasion, so it was rumored, a bit of contraband "wet goods". As a rival to Joe, about 1911, John Panconi came to Burgettstown and opened a fruit store and an ice cream parlor, specializing in home-made ice cream of many flavors. Across the railroad tracks, Clark Cooke had his meat shop and back around the corner was the feed store conducted by John C. Fulton and Company. Many a load of grain did we deliver there from the old farm and many a load of bran and middlings did we haul away for feed for our livestock. Directly opposite the passenger station stood the freight house with, I think, W. S. Fulton then in charge. Across the road from this building where the Coll Tire Shop stood until recently was Charley Hindman's harness shop and Clem Elder's clothing store. My first suit of clothes came from Mr. Elder's store. When this suit appeared to my father to be a bit too large, Mr. Elder advised him to feed the boy plenty of strawberry short-cake and soon he would find the suit a perfect fit. This advice was followed and the desired result was quickly attained.

Other stores and places of business recalled: J. A. McKenzie had a music store about where Kobe's Dairy Store is now located; a short distance away stood George Conrad's Tin-shop to the rear of which his old German parents had their green-house, always a favorite place for a boy to stop since Mrs. Conrad usually had a stick of candy or a cookie to hand out. Somewhere along Main Street, Miss Emma McNary had her millinery store and the

Enterprise was then located in its present quarters. The second story of this building was occupied by the dental office of Dr. W. S. Clark. Standing near was the Purdy Livery Stable, later to be taken over by George Wilson and Sons. Opposite was the new building of the Washington National Bank, organized in 1904 as a rival of the old Burgettstown Bank. In the lot where the Falcon Service Station now stands B. F. McClure and Bro. (Alex) conducted a hardware store and down on the corner where the post office is now was Dr. W. E. Dickson's residence with his dental office in his home.

There were no shopping centers as we now know them, no real department store in Burgettstown, but all of the genial businessmen heretofore mentioned stood ready to supply all our needs, so only occasionally did we find it necessary to take a trip to the City (Pittsburgh) but when we did we had a choice of nine daily schedules of trains stopping at Burgettstown. The Panhandle Railroad was really an accommodating line in those days.

So things have changed in Burgettstown since the good old days of the early 1900's. Then, all roads led "to" Burgettstown and the businessmen of the town were busy serving their many customers from over a wide area. Today it would seem that all roads lead "through" the town and only a fraction of the daily traffic flow ever stops here. Yet Burgettstown is still a good place to shop. We invite you to stop off and see if that is not still true.

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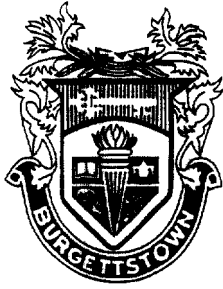
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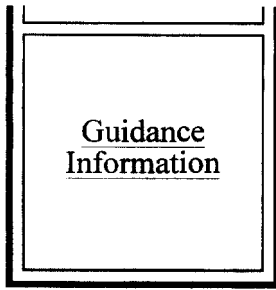
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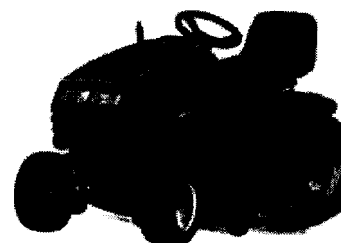
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CARL T. JONES
CORPORATION

**STATEMENT OF WILLIAM J. GETZ
IN SUPPORT OF A PETITION TO AMEND
THE FM TABLE OF ALLOTMENTS**

I am a Radio Engineer, an employee in the firm of Carl T. Jones Corporation with offices located in Springfield, Virginia. My education and experience are a matter of record with the Federal Communications Commission.

This office has been authorized to prepare this statement in support of a Petition to Amend the FM Table of Allotments, Section 73.202(b) of the FCC Rules and Regulations. The petitioner requests that Section 73.202(b) of the FCC Rules be modified in the following manner:

| | <u>Present</u> | <u>Proposed</u> |
|------------------|----------------|-----------------|
| Steubenville, OH | 278B | ---- |
| Burgettstown, PA | ---- | 278B |

In accordance with the requested modifications to the FM Table of Allotments, the Petitioner requests that the license of station WOGH(FM) be modified to specify operation on channel 278B at Burgettstown, Pennsylvania.

The instant Petition for Rulemaking will allow WOGH(FM) to provide a first local service to Burgettstown, Pennsylvania (1990 population 1,634). Full service commercial

**STATEMENT OF WILLIAM J. GETZ
PAGE 2**

radio stations WDIG(AM) [950 kHz] and WSTV(AM) [1340 kHz] and noncommercial FM station WBJV(FM) [88.9 MHz] will continue to provide local service to Steubenville, Ohio.

An engineering study of all pertinent allotments, assignments and applications revealed that Channel 278B can be allotted to Burgettstown, Pennsylvania, with a site restriction of 20 kilometers west. The allotment reference coordinates for Channel 278B at Burgettstown, Pennsylvania are the same as the present WOGH(FM) licensed transmitter site: 40° 20' 32" N.L. and 80° 37' 14" W.L. The Burgettstown allotment reference site satisfies the city-grade coverage requirements of §73.315 of the FCC Rules. In addition, the Burgettstown allotment reference site meets allotment standards and the minimum spacing requirements of §73.207 with respect to all pertinent protection requirements with the exception of first-adjacent channel pre-1964 grandfathered short-spaced station WCRF-FM, Cleveland, Ohio and second-adjacent channel Class A station WANB-FM, Waynesburg, Pennsylvania.

As stated above, the allotment reference coordinates for Channel 278B at Burgettstown, Pennsylvania, are the same as the present WOGH(FM) licensed transmitter site coordinates. The authorized transmitter sites for WANB-FM and WOGH(FM) are separated by 66.9 kilometers. These two stations became short-spaced as a result of the Commission's March, 1984, adoption of MM Docket 80-90 and the change in minimum distance separations from 40 miles (64.4 km) to 69 kilometers for second-adjacent channel related Class B to Class A stations. Consequently, the WOGH(FM)/WANB-FM short-

STATEMENT OF WILLIAM J. GETZ
PAGE 3

spacing is also governed by the grandfathered sort-spacing provisions of Section 73.213 of the FCC Rules.¹

Consistent with Allocations Branch precedent, WOGH(FM), an authorized "grandfathered" short-spaced FM station, is afforded the same opportunity to change its community of license as other stations authorized in conformity with FCC Rules.²

Because the reference site proposed herein is the same as the presently licensed WOGH(FM) transmitter site and no change in technical facilities is proposed herein, gain and loss area studies are not required because there are no gain and loss areas associated with the instant proposal.

According to 1990 U.S. Census data, Burgettstown, Pennsylvania is not part of any U.S. Census designated urbanized area. Consequently, a Tuck analysis is not required. See Faye and Richard Tuck, 3 FCC Rcd 5374 (1988).

This statement was prepared by me or under my direct supervision and is believed to be true and correct.

DATED: September 28, 2000


William J. Getz

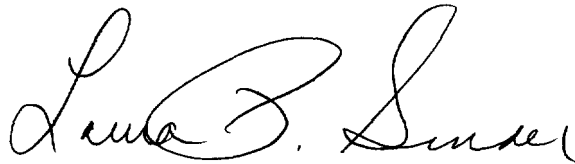
¹ Another allotment reference site (40-23-01 N.L. & 80-35-52 W.L.) which describes the location of an existing tower (FCC tower registration number 1033833) was identified which satisfies spacing requirements to WANB-FM. This site is presented as an alternative and is short-spaced only to WCRF-FM, the pre-1964 grandfathered short-spaced station.

² See Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations: (Oceanside and Encinitas, CA), MM Docket No. 99-170, DA 99-1837, Released September 10, 1999; and (Berlin and North Conway, New Hampshire), MM Docket No. 97-216, DA 99-1839, Released September 10, 1999.

CERTIFICATE OF SERVICE

I, Laura P. Sinner, of the law firm Kaye, Scholer, Fierman, Hays & Handler, LLP, do hereby certify that on this 3rd day of October, 2000, a copy of the foregoing "Petition for Rulemaking" was hand-delivered to the following:

John A. Karousos
Chief, Allocations Branch
Policy and Rules Division
Mass Media Bureau
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

A handwritten signature in cursive script, reading "Laura P. Sinner", written in black ink.

Laura P. Sinner